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## SHALL THE LEGAL PROFESSION BE REORGANIZED?

the grammar schools on the average. The same story can be duplicated in every city in which much is made of vocational or of industrial education.

Here is grist for the criminologist's mill. Thousands of children are at an early age leaving schools that are unfitted for them and tumbling into temptation. Let every city follow the lead of Cleveland et al. Extend the principle of democracy in education. Develop in the system of public education ample facility for vocational instruction. Throw it open to election by any one with the consent of his guardian. Especially encourage those who are seriously behind grade to select the new environment, and, as a last resort but one, require those who are defective, as measured by scientific tests, to enter here, and if improvement does not ensue, isolate them in special schools, as Judge Olson proposes. In cases in which there can be no shadow of doubt of the defective mentality of the subject, let the last resort of all, isolation, be immediately accepted.

Thus, I believe, we will materially relieve the situation that is so strikingly illustrated for us in the statistics from the Morals Court of Chicago and elsewhere. Thus many so-called defectives will be found to have been only misfits who are entirely capable of making headway in a modified academic scheme.

Through the extension and enforcement of compulsory education; the modification of parental school laws; the development of vocational education systems for misfits in the traditional grammar and high schools; the establishment of special schools to which to commit those youths who are proven mentally defective and beyond the reach of the regular agencies, and by sane attention to hygiene, we may attain the eighty per cent elimination of crime and prostitution that Judge Olson foresees.

ROBERT H. GAULT.

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On the mighty wave of radical thought, now surging upon the legal profession, it was inevitable that we should find proposals to reconstruct the profession itself. Three types of these proposals are found in Mr. Gray's and Mr. Adelman's symposium in the present number of this journal. Another variety is found in Mr. Wesley W. Hyde's articles in the November number of the *Illinois Law Review*, entitled "Reorganization of the Legal Profession."

The coincidence in time of these published proposals is not a mere accident. Much more such radical thinking is going on than most

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lawyers suspect. The time is at hand when there will be still more of it. What does it signify?

One thing signified is that the profession is not giving satisfaction to the best ideals of the day. We may as well acknowledge this. Whether standards have changed, or the profession has changed, the fact remains that its work, judged by present best standards, is to a considerable extent wasteful and misguided. It is wasteful in that it expends time, labor, and money on needless controversies. It is misguided in that this waste is due to a faulty direction of energies. Nothing less than some sort of reconstruction of methods will suffice to prevent the waste.

Whether any of these proposals represents the solution depends on (1) whether it perceives the precise nature of the present shortcomings, (2) whether it gauges correctly the human nature involved in the problem, (3) whether it offers a remedy that fits these shortcomings and this human nature.

All of the proposals thus far published offer one feature in common, viz., the status of a salaried official for the advocate. They differ in the extent to which this status is to be given, whether to a portion or a whole of the bar. The only one which does not go so far is Mr. Kales' proposal to restore, in a new form, the English distinction between advocate and attorney; but his proposal is founded mainly on the need of the greater skill to be gained by specialization, and not on the grounds advanced in the present articles.

The thought of placing the bar upon an official salaried status will be for many the subject of derisive incredulosity. No doubt, in its radical entirety, it could be only feasible after another generation of change. But in the meantime it need not be laughed at, for the simple reason that we ourselves have already in part done it. As Mr. Hyde points out in the *Illinois Law Review*, the official prosecuting attorney is unknown to the English common law. Invented in France five centuries ago, he remained unknown in England, and America re-invented him nearly a century ago. (Just when, nobody seems to know; we need a history of the public prosecutor in America.) Thus, we have already officialized the bar on one-half of the criminal side; and in some states the law does not even permit the appearance of a counsel privately retained on the side of the prosecution. It is at least not a radical step to officialize the criminal bar on the other half. The public defender (a measure first proposed by Clara Foltz, of the San Francisco bar, now thirty years ago, in the *American Law Review*) has at last come in sight, and will soon be here to stay.

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But in the meantime, in civil cases, is there not a field in which the public-salaried official advocate may play a modest part? And is it not a part which would go far to remove some of the worst reproaches of present-day justice? We refer to a public legal adviser for the poor.

The largest law office in the United States is the New York Legal Aid Society, to which come some 40,000 new clients a year. The next largest is the Chicago Legal Aid Society, to which come some 17,000 new clients a year. Judged by the money amounts at stake, and the means of the clients, this legal business is of course only a small affair. The average amount of a collection, for example, in the Chicago Society's office is only \$7.50. That is, these thousands of clients represent only a minute fraction of the litigation or legal advice which furnishes a living for the 50,000 American active practitioners who follow a legitimate legal career. Hence, the business and duty of taking care of these persons' legal troubles does not substantially interfere with the legal profession as a whole. In fact, the legal profession *can not afford* to take care of them.

But if the legal profession can not afford to, *who will? Who does?*

Partly charity does, viz., the legal aid societies. Partly, but only a little, relatively well-off practitioners do. Partly, and a good deal, shysters do. And partly, and a good deal, nobody does.

And now we come to the point: Why should not the state take care of them? Why should not a body of public-salaried practitioners take care of all poor persons' litigation? The state has a duty to administer justice; and legal advisers, consulted prior to trial and acting at the trial, are an essential part of justice's machinery. Why blink the facts? And the facts are that private charity and private shysters, between them, are taking care of most of these people, and that an unknown mass of needs is not attended to at all.

Why should not the state step in and do this work, or a part of it? The state maintains public hospitals; but these do not drive out private endowed hospitals nor destroy the private medical practitioners. Justice has been a state function long before health was. And yet, the state blunders complacently along, ignoring the terrific fact that it is not providing the necessary means of justice at all for thousands and thousands of people every year.

All I wish to emphasize is that there is a part of the field, small in relative scope, but large in the intensity of its suffering and need, in which the state today can and ought to officialize the bar, without any radical change of method, of ideals, or of human nature.

JOHN H. WIGMORE.